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EXAMINER

ELISCA, PIERRE E

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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAY PAUL DRUMMOND, DALE BLACKSON,
BOB A. CICHON, JOSEPH C. ESS, MARK A. MOALES,
DAVID W. WEIS, MARK D. SMITH, and JAMES CHURCH

Appeal 2008-1626
Application 09/193,564
Technology Center 3600

Decided: January 14, 2009

Before JOSEPH F. RUGGIERO, LANCE LEONARD BARRY, and
HOWARD B. BLANKENSHIP, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-20; the Appellants appealed therefrom under 35 U.S.C. § 134(a); and we affirmed in part. The Appellants now request rehearing.

ISSUE

The Appellants argue "that the summary presented in the 'Order' section of the Decision (on page 14, at paragraph heading IX) includes typographical errors." (Req. Reh'g 2.) "Clarification of the record to provide certainty that the rejections of claims 3, 8, 10, 12- 13, and 17-20 were reversed in the Decision is respectfully requested by Appellants." (*Id.*) Therefore, the issue is whether the Appellants have shown with particularity points believed to have been misapprehended or overlooked by the Board.

LAW

An "Appellant may file a single request for rehearing within two months of the date of the original decision of the Board." 37 C.F.R. § 41.52(a)(1)(2008). "The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board." *Id.*

FINDINGS OF FACT

The following findings of fact are supported by a preponderance of the evidence.

1. The Examiner rejected claims 17-20 *inter alia* under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,706,442 ("Anderson").
2. Claim 17 recites in pertinent part the following limitations: "loading data corresponding to the operating data in a memory of the automated

transaction machine; and . . . operating the at least one transaction function device of the automated transaction machine responsive to the operating data."

3. The Board found that "the Examiner has not shown that Anderson operates at least one transaction function device of the automated transaction machine responsive to data loaded into the automated transaction machine's memory." *Ex parte Drummond*, Appeal No. 2008-1626, 11 (BPAI August 18, 2008).

ANALYSIS

Because the Examiner had not shown that Anderson operates at least one transaction function device of the automated transaction machine responsive to data loaded into the automated transaction machine's memory, we reverse the rejection of claim 17 and of claims 18-20, which depend therefrom. The inclusion of claims 17-20 in the statement that "[i]n summary, the rejections of claims 1, 2, 4-7, 9, 11, and 14-20 are affirmed" *Drummond*, at 15, is inconsistent with our reversal.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown with particularity points believed to have been misapprehended or overlooked by the Board.

ORDER

We reverse the rejection of claim 3, 8, 10, 12, 13, and 17-20.
The "Order" section of our original opinion is amended to read as follows.
"In summary, the rejections of claims 1, 2, 4-7, 9, 11, and 14-16 are affirmed.
The rejection of claims 3, 8, 10, 12, 13, and 17-20, however, is reversed."

No time for taking any action connected with this appeal may be
extended under 37 C.F.R. § 1.136(a)(1)(iv).

GRANTED

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